



**Planning Board &
Zoning Board of Adjustment
Town of Eaton
Evans Memorial Building
Eaton, NH 03832**

November 20, 2024

The Planning Board and Zoning Board of Adjustment met on Wednesday, November 20, 2024, at the Town Hall for a joint meeting. Present for the Zoning Board were Chairman Steve Larson, John Border, Megan Hoffer, Mark Griffin, and Pam Burns. Present for the Planning Board were Chairman Dennis Sullivan, Peter Klose, Greg Grinnell, Cindy Hall, Judy Wilson, and Kevin Conklin. Dennis Sullivan called the meeting to order at 6:00 pm and appointed alternate Peter Klose as a Planning Board member for the evening.

Cindy Hall made a motion to waive the reading of the Planning Board Minutes from October 23, 2024, and adopt them as written. Kevin Conklin seconded the motion. The motion unanimously carried.

Select Report

Greg Grinnell gave a report from the Select Board. He reported that the Zoning Board case involving a shed improperly placed within the road setbacks had been resolved as the property owners have applied for a building permit to move the shed to a more appropriate area. Greg Grinnell reported that there is a possibility of a cell phone tower being built at the King Pine ski area. Greg Grinnell stated that the Selectmen are keeping tabs on the possibility of a cell phone tower being built in that location, and that might mean the Town would not need an additional cell phone tower constructed.

Conservation Commission

Planning Board Chairman Dennis Sullivan stated that the Conservation Commission did not have a report prepared for this meeting.

Zoning Board

Zoning Board Chairman Steve Larson reported that Case #2024- involving an improperly parked RV had been resolved, as the property owners are removing the RV from the property and therefore had withdrawn their application for a Variance from the Zoning Board. Steve Larson confirmed that Case #2024- involving the shed placed in the road setbacks had been resolved by the property owners moving the shed.

Administration

The Planning Board discussed a voluntary merger of two lots on Youngs Road that are both owned by the same person. Dennis Sullivan explained that merging the lots was in the best interest of the Town, because one of the lots is very small and does not meet Zoning Ordinances for building.

Kevin Conklin made a motion to approve the voluntary lot merger, seconded by Judy Wilson. The motion unanimously carried.

At 6:15 pm Planning Board Chairman Dennis Sullivan opened the Public Hearing to consider Case #2024-03 an application for a short-term rental from Michael Kent.

Kevin Conklin made a motion, seconded by Cindy Hall, to accept the application from Michael Kent as complete. The motion unanimously carried.

Chairman of the Zoning Board Steve Larson introduced the Zoning Board members and invited applicant Michael Kent to state his case.

Michael Kent stated that the property in question has been used as a short-term rental for approximately six years and that he was unaware until six months ago that he was not allowed to use the property in that way without approval from the Town. Michael Kent stated that the property is usually rented from approximately three to ten days in a row and that his family also frequently uses the property. Michael Kent stated that because the property is expensive to rent and maintain, they do not get rowdy or disrespectful people staying on the property. Michael Kent stated that his renters are usually families, and that he requires background checks on all renters and that he does not allow parties on the property. Michael Kent stated that his property is over 85 acres in size and the house is over 2,000 feet from the closest neighbor. Michael Kent stated that while the home has four bedrooms, the maximum occupancy on the rental listing is for twelve people. Michael Kent also stated that he employs a house cleaner and a caretaker to consistently maintain the property.

Chairman of the Zoning Board Steve Larson asked the audience if anyone wanted to speak in favor of Mr. Kent's application. There were no comments. Chairman Larson then asked the audience if anyone wanted to speak against the application. Thaire Bryant stated that asking for forgiveness after breaking the rules instead of asking for permission to begin with goes against the Town's Zoning Ordinances. Joel Wasserman spoke about a negative experience he had involving noise and vulgar language at a different short-term rental property and expressed concern about a similar situation happening in Eaton. Michael Kent responded that he does not allow that type of renter at his property, and that most of his renters are repeat customers that visit every year. Michael Kent also reiterated that the home is over 2,000 feet from the closest neighbor, which means any noise made by his renters is a good distance away from any surrounding properties.

John Border stated that one of the Zoning Regulations concerning short-term rentals states that the property must be owner occupied and questioned Michael Kent on the frequency in which he is at the property. Michael Kent replied that he does not frequently stay at the property, but that his children and grandchildren stay at the property on a regular basis and do not pay rent to do so. Michael Kent also stated that he has a full-time caretaker acting as his proxy, and that the caretaker is frequently at the property every day of the week doing maintenance. John Border also pointed out that the applicant's home has four bedrooms, and the Zoning Ordinance allows for no more than three bedrooms in a short-term rental. Steve Larson stated that approvals are given to the property itself and not the owner of the property, and that good caretaking by the current owner should have no bearing on the decision made by the Board.

Judy Wilson asked what name was on the deed to the property. Michael Kent stated that only his name is on the deed. Steve Larson stated that there is no way to regulate how the

property is occupied by the owner, and that it is also not quantified in the Zoning Regulations. Kevin Conklin stated that the Board should consider the intent of those who wrote the document and interpret it from that perspective. Thaire Bryant stated that the statute was written about in-law apartments. Greg Grinnell asked how frequently the caretaker was on the property. Michael Kent stated that the caretaker is on the property at least twice a week, and frequently he is there every day. Michael Kent stated that he also has a housekeeper there cleaning after every rental. Judy Wilson stated that the Zoning Regulations say the property must be owner occupied, but they do not state that the owner must occupy the property at the same time as the renters. John Border stated that the key question to consider in this application is if the family representatives also count as the owner.

The Board questioned Mr. Kent about several recent emergency calls to the property. Mr. Kent stated that there was an individual trying to squat on the property and that he has since had exterior security cameras installed to try to prevent incidents like that from happening in the future.

Judy Wilson asked if the property was currently for sale. Michael Kent stated that he is currently looking for partners to own part of the property with him but will fully sell the property in the future if the opportunity arises. Cindy Hall pointed out that if the application is approved, the home will sell as a short-term rental, because the approval will follow the property. Mark Griffin asked if a future owner of the property does use it as a short-term rental, can the town revoke the approval if they do not follow the rules?

Following this discussion, the Zoning Board moved on to discussing the Special Exception Worksheet.

- 1) **The property must be owner occupied:** There was much discussion on how to interpret this Zoning Regulation. The Board decided that the property was owner occupied because the owner's family frequently used the home, and because the owner had a local caretaker acting as his representative who could immediately attend to the property should any problems arise.
- 2) **A Short-Term Rental Property shall contain no more than three bedrooms for rent:** The property in question has more than three bedrooms, but the maximum occupancy on the rental listing is twelve people. Steve Larson stated that limiting the short-term rental listing to three bedrooms only can be part of a conditional approval. Mark Griffin stated that enforcement of this condition will be a challenge. John Border noted that 3 bedrooms with 4 beds each would limit capacity to 12 people.
- 3) **Rental periods shall be for up to 30 days:** Michael Kent stated that he has not rented to anyone for longer than 30 days, and that he does not anticipate doing so in the future.
- 4) **A Short-Term Rental Property shall be subject to a Site Plan Review by the Planning Board:** Steve Larson stated that this can be a condition of approval.
- 5) **Parking shall adhere to Article IV. Section D:** Michael Kent stated that there is plenty of parking on the property and estimated that there are 15-20 spaces for cars in the driveway.

- 6) **Sewage Disposal:** Michael Kent stated that the septic system was approved and installed in 2008 and that he has proof that it is properly maintained. Michael Kent stated that he has the septic tank pumped every year.
- 7) **Use Limitation- A Short-Term Rental property shall not be used for any other hospitality or business-related uses:** Michael Kent stated that he has no issues with this.
- 8) **All buildings and facilities must comply with all New Hampshire building, life safety, fire, and energy codes:** Chairman Larson stated that Mr. Kent will need to have the Town's building inspector out to the property. Michael Kent stated that this will not be an issue for him.
- 9) **There shall be no occupancy of the rental units until the Board of Selectmen has issued a Certificate of Occupancy:** Chairman Larson stated that this will be one of the conditions if given approval.

Zoning Board Chairman Steve Larson made a motion to approve the application with no conditions, seconded by Pam Burns. The motion failed with a 4-1 vote against.

Zoning Board Chairman Steve Larson made a motion to approve the application with four conditions, seconded by John Border. The motion unanimously passed, with the four conditions being:

- 1) No more than three bedrooms will be available to rent, with a maximum occupancy of twelve people.***
- 2) Site Plan Approval needs to be obtained from the Planning Board.***
- 3) The property will be inspected by the Town's Building Inspector to ensure that it is following all New Hampshire Building and Safety Codes.***
- 4) The property owner will obtain a Certificate of Occupancy from the Selectmen.***

At 7:47 pm, the Planning Board began their review of the application. Cindy Hall asked if Michael Kent could supply proof of the claim that he employs a caretaker at the property. Michael Kent stated that he can provide proof and stated that the caretaker is on hand to meet every new rental party to give them the keys to the house. Dennis Sullivan stated that the Statute regarding owner occupancy is so there is someone available locally if the renters or neighbors to the property have any problems. Chairman Sullivan stated that he would like one condition of approval to be the property owner providing the Town with a contact for the caretaker, to fulfill the intention of Article 6, Section J1 of the Site Plan Review Regulations regarding owner occupancy. Kevin Conklin noted that the Site Plan Regulations should be amended to reflect Zoning Ordinance requirements. Chairman Sullivan stated that waiving the requirement and obtaining contact information does not change the intent of the Regulation as the purpose was to be able to quickly address any issues which arise at the property.

Judy Wilson questioned whether there have been any well issues. Michael Kent noted that

he gets approximately 26 gpm and has a filtration system. Greg Grinnell asked what would happen to the conditions if the property changed hands. Chairman Sullivan suggested a condition where the sellers of the property would be required to notify the new owners of the rules for using the property as a short-term rental. Peter Klose asked if renters of the property are allowed to bring weapons with them, with the example being a gun for target practice. Michael Kent stated that no weapons were allowed on the property. Chairman Sullivan asked if Mr. Kent has been properly paying the State Rooms and Meals Tax. Michael Kent was unsure but believed that tax was already taken out at the time of booking. Michael Kent stated that he will have his accountants investigate the matter and provide proof that the taxes are being paid. Chairman Sullivan suggested adding paying the NH State Rooms and Meals Tax as a condition of the application approval. Dennis Sullivan stated that the final condition for approval will be the property owner obtaining a Certificate of Occupancy from the Selectmen.

Kevin Conklin made a motion, seconded by Greg Grinnell, to approve the application with four conditions. The motion passed with a vote of 4-2 with the following conditions:

- 1) The applicant will provide contact information for the property caretaker.***
- 2) The applicant will disclose the conditions for using the property as a short-term rental to all future buyers of the property.***
- 3) The applicant will pay all New Hampshire Rooms and Meals Taxes, as required by the State and provide proof to the Town.***
- 4) The applicant will obtain a Certificate of Occupancy from the Board of Selectmen.***

Chairman Sullivan noted that the Planning Board needed to create a notice for a Public Hearing for the next meeting so the Board could approve the wording of the proposed Zoning Amendments. Chairman Sullivan also noted that the deadline has been extended for residents to turn in their completed Questionnaires, and that the Board will begin to review them at the next meeting.

Chairman Sullivan made a motion to adjourn the meeting, seconded by Kevin Conkin. The motion unanimously carried. The meeting was adjourned at 8:07 pm.

Respectfully submitted,

Bethany Hicks

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